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DISTRICT OF NEW JERSEY
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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LYNN AWKWARD,

Plaintiff,

**CERTIFICATE OF
SERVICE FOR
SERVICE BY MAIL**

vs.

Case No. 2:19-12371-SDW-
LDW

STATE OF NEW JERSEY and
DAVID P. CARROLL,

Defendant(s).

I hereby certify that on 06/24/2019 (mm/dd/yyyy), I caused the following documents:

AMENDED VERIFIED COMPLAINT

[Check the box, below, that applies to how you served the above documents.]

☐ to be filed electronically with the Clerk of Court through ECF and/or

☒ that I caused a copy of the foregoing documents (and the notice of electronic filing, if filed electronically) to be mailed by first class mail, postage paid, to the following:

STATE OF NEW JERSEY
Attorney General
25 Market St
Trenton, NJ 08611

David P. Carroll
Court Officer
478 Martin Luther King Blvd, Rm 273
Newark, NJ 07102

Date:

s/ Lynn Awkward
Signature of filing party

Lynn Awkward

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DISTRICT OF NEW JERSEY
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Sent To David P. Carroll Court Officer

Street and Apt. No., or PO Box No. 428 Martin Luther King Blvd Box 223

City, State, ZIP+4® Newark NJ 07102

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

4E70 ES96 0000 DETT RT02

1 Lynn Awkward
2 80 W. Passaic Ave
3 Bloomfield, NJ 07003
4
5
6

7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEW JERSEY
9

10 LYNN AWKWARD,

No. 2:19-12371-SDW-LDW

11 Plaintiff,

12 vs.

13 STATE OF NEW JERSEY and
14 DAVID P. CARROLL,

15 Defendants.
16

AMENDED VERIFIED COMPLAINT

17
18 COMES NOW the Plaintiff, *In Pro Per*, and brings this Complaint against
19 Defendants and states as follows:

20 **I. JURISDICTION AND VENUE**

- 21 1. Plaintiff claims federal jurisdiction pursuant to Article III §2 which extends the
22 jurisdiction to cases arising under the U.S. Constitution.
23
24 2. Venue is proper pursuant to 28 U.S.C. §1391(b). Venue in this District is
25 proper in that the Plaintiff resides here, the conduct complained of occurred
26 here.
27
28 3. This is an action for damages which exceed \$10,000.00.

- 1 4. Plaintiff brings this suit pursuant to Title 42 U.S.C. §1983 for violations of
2 certain protections guaranteed to him by the Fourth, Fifth, and Fourteenth
3 Amendments of the federal Constitution, by the defendants under color of law
4 in their official and individual capacities.

5 **II. PARTIES**

- 6
7 5. Plaintiff, Lynn Awkward, is a natural person and is a resident of this State
8 (hereinafter "Plaintiff").
9 6. Defendant State of New Jersey (hereinafter "STATE") is a policy making body
10 politic with its principal place of business located at 125 West State Street,
11 Trenton, New Jersey.
12 7. Defendant David P. Carroll (hereinafter "CARROLL") is Court Officer
13 Trustee for the Superior Court of New Jersey, Essex County.
14

15 **III. STATEMENT OF THE CASE**

- 16 8. Acting under color of law, Defendant CARROLL, as an officer/trustee of the
17 court, caused to be sent to Plaintiff a "Notice To Defendant" dated January 18,
18 2019, signed by Defendant CARROLL, which stated a threat to take action
19 which was not authorized by the U.S. Constitution. In said notice, Defendant
20 CARROLL threatened to enter Plaintiff's home for the purpose of levying &
21 selling Plaintiff's personal property. Defendant STATE created or authorized
22 policy in which Defendant CARROLL used under color of state law to violate
23 Plaintiffs rights. See **Exhibit "A"**.
24
25 9. Title 42 U.S.C. §1983 reads as follows:

26 Every person who, under color of any statute, ordinance, regulation,
27 custom, or usage, of any State or Territory, subjects, or causes to be
28 subjected, any citizen of the United States or other person within the

jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

IV. CAUSES OF ACTION

FIRST CAUSE OF ACTION **VIOLATION OF DUE PROCESS**

10. Defendant CARROLL, acting under color of law, without due process of law threatened to enter Plaintiff's home without a lawful warrant, remove Plaintiff's personal property, and sell said property.

11. Defendant CARROLL, acting under color of law, sent Plaintiff a written and signed notice stating he would perform the unlawful acts stated therein.

12. Defendant CARROLL presented no law that would permit him to enter Plaintiff's home without a warrant.

SECOND CAUSE OF ACTION **FAILURE TO INSTRUCT, SUPERVISE, CONTROL**

13. Plaintiff alleges and incorporate the information in paragraphs above.

14. At all relevant times, Defendant CARROLL was acting under the direction and control of the State of New Jersey, which acted through its agents and employees who were responsible for making policy of the Superior Courts, its officers and operations

15. Defendant CARROLL was acting pursuant to either official policy or the practice, custom, and usage of the State of New Jersey and its courts.

16. Acting under color of law, by and through its policy-makers and pursuant to official policy or custom and practice, the State of New Jersey intentionally, knowingly, recklessly and with deliberate indifference to the rights of the

1 inhabitants of the state failed to instruct, supervise, control, and/or discipline
 2 Defendant CARROLL to refrain from conducting unlawful violations of federally
 3 protected rights, privileges, and immunities belonging to Plaintiff.

4 17. Defendant STATE had knowledge or should have had knowledge that the
 5 wrongs alleged herein, or other unlawful, unconstitutional acts were going to
 6 be committed and had the power to prevent, or aid in the preventing, the
 7 commission of said wrongs, could have done so, and intentionally, knowingly,
 8 or with deliberate indifference to the rights of inhabitants of the State of New
 9 Jersey, failed or refused to do so.
 10

11 18. Defendant STATE directly or indirectly, under color of law, approved or ratified
 12 the unlawful, deliberate, malicious, reckless, and wanton conduct of Defendant
 13 CARROLL.
 14

15 **THIRD CAUSE OF ACTION**
 16 **INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS**

17 19. Plaintiff alleges and incorporate the information in paragraphs above.

18 20. Defendant Carroll's direct and proximate action caused Plaintiff to suffer
 19 emotional distress and mental anguish. Plaintiff suffers and lives in anxious
 20 fear of these threats and has lost sleep, experiences disruptive thoughts of
 21 Defendant CARROLL bursting into Plaintiff's home with the intent to cause
 22 Plaintiff harm. It is difficult for Plaintiff to live a normal and secure life.
 23

24 21. The term "intentional infliction of emotional distress" can be defined as:


25 conduct. . . truly extreme and outrageous. Second, the actor must either intend
 26 that his conduct inflict severe emotional distress, or know that there is at least
 27 a high probability that his conduct will cause severe emotional distress. Third,
 28 the conduct must in fact cause severe emotional distress. . . Doe v. White, 627
 F. Supp. 2d 905, 912 (C.D. Ill. 2009)

1 22. The tone and outrageous threats in the notice that Defendant CARROLL sent
2 to Plaintiff caused all of the elements of intentional infliction of emotional
3 distress. The notice was sent for the purpose of intimidating Plaintiff into
4 making the requested payment. It is the understanding and belief of Plaintiff
5 that only a law enforcement officer with a valid warrant could enter his home
6 and remove personal property. Defendant CARROLL did not claim to be a law
7 enforcement officer with a valid warrant. In fact, Defendant CARROLL claimed
8 to only be a Court Officer.
9

10
11 **V. RELIEF SOUGHT**

12 23. Plaintiff requests this Court to issue an Order restraining Defendant Carroll
13 from taking actions that violate Plaintiff's rights. Plaintiff requests this Court to
14 enjoin Defendant New Jersey from creating/enforcing policy that violates
15 Plaintiff's rights. Plaintiff requests this Court to impose relief in the form of
16 punitive damages against Defendant New Jersey in the amount of \$10,000.
17 Plaintiff requests this Court to impose relief in the form of punitive damages
18 against Defendant Carroll in the amount of \$10,000. Plaintiff requests this
19 Court to impose actual damages against Defendant Carroll in the amount of
20 \$5,000. The basis for the punitive damages is to encourage the Defendants to
21 cease their unlawful acts. The basis for the actual damages is for
22 compensation for suffering emotional distress mental anguish and anxiety.
23
24

25 Respectfully submitted this 24 day of June 2019.

26 
27 Lynn Awkward
28

VERIFICATION

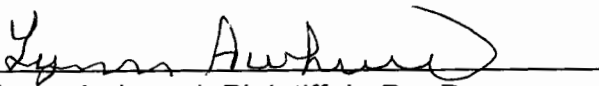
STATE OF NEW JERSEY
COUNTY OF ESSEX

I have read the foregoing Complaint and know its contents.

I am the Plaintiff, party to this action, and am authorized to make this verification.

The matters stated in the foregoing document are true and of my knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of New Jersey that the foregoing is true and correct.


Lynn Awkward, Plaintiff, In Pro Per



David P Carroll Court Officer
P O Box 1196
West Caldwell, NJ 07007

Court Officer
SUPERIOR COURT OF NEW JERSEY
Special Civil Part, County of Essex

At the Suit Of:
Midland Funding LLC

Superior Court of New Jersey
50 West Market Street
Newark, NJ 07102

Plaintiff

Lynn Awkward
80 W Passaic Ave
Bloomfield, NJ 07003

On Execution

Docket

DC-010112-17

Writ No.

1

Defendant

File No.

30880

Notice To Defendant

On 7/20/2018 a judgment was entered against you by this court
In the Amount of \$5,126.79 with a balance of \$5,126.79

To date, this judgment remains unpaid. Unless you contact me immediately and make satisfactory arrangements to pay the total due, I shall apply to the court for an Order permitting me to enter your home (or business) to levy household goods and furnishings (or business assets) , inventory them and have them appraised so that the value in excess of \$1,000 may be sold at public auction the highest bidder to satisfy the judgment.

01/18/2019

dated

EX Custodian

Make and Mail All Checks To:

COURT OFFICER DAVID P. CARROLL, TRUSTEE

Sincerely,

c/o David P Carroll Court Officer
P O Box 1196
West Caldwell, NJ 07007

David P Carroll

tel.: (973) 227-2848

David P Carroll Court Officer
N.J. Superior Court, Essex County

fax.: (973) 882-3525

IMPORTANT: Please use the docket number on all correspondence and on all checks.

Please Pay By



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